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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

United States District Court
Southern District of Texas
ENTERED

AUG 14 2001

Michael N. Mulvey, Clerk of Court
By Deputy Clerk 

EDWARD ALCALA, ET AL.

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VS.

CIVIL ACTION NO. B-96-203

ALEX PEREZ, ET AL.

ORDER

Pending before the Court is the Defendant Cameron County's Motion for Summary Judgment (Docket No. 224). The Plaintiffs have filed a Response (Docket No. 226).

The issue presented by the County's Motion is whether or not the County is entitled to claim that four jail lieutenants are supervisory employees and thus exempt from the requirement that overtime wages be paid.

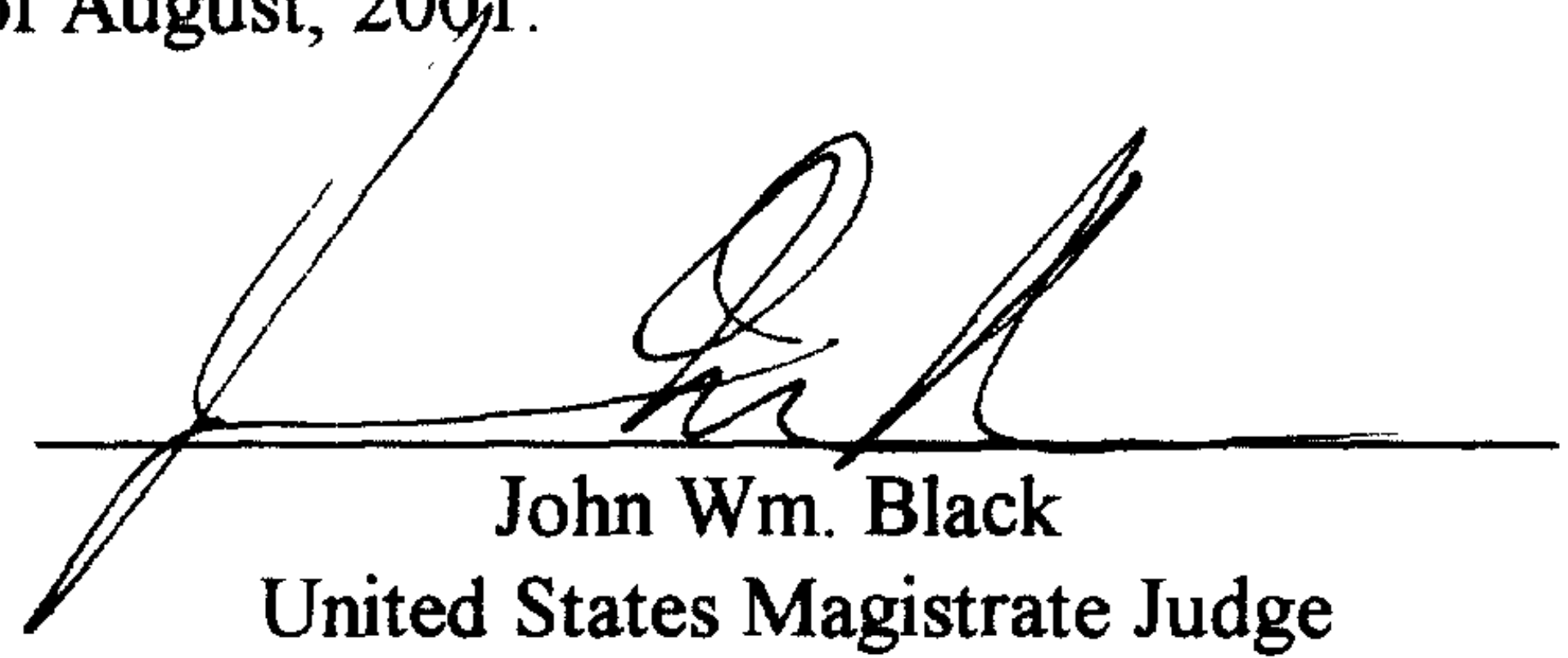
The history and issues in this litigation have been recited in a Report and Recommendation dated October 13, 2000, (Docket No. 207). That Report and Recommendation concluded with respect to the overtime claims of the lieutenants that the record was not sufficiently developed to determine whether the primary duty of the lieutenants was supervision.

The current Motion for Summary Judgment and the Response focuses on the duties of the lieutenants. After a complete review of the Motion, the attachments thereto and the Response and its attachments, the Court finds that while a substantial part of the duties of the lieutenants is supervisory they also work alongside the jail detention officers doing the same type of work as the detention officers.

It is the opinion of the Court that the County is not entitled to the executive exemption contained in the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1).

The Motion for Summary Judgment is, therefore, **DENIED**.

DONE at Brownsville, Texas, this 13th day of August, 2001.



John Wm. Black
United States Magistrate Judge